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Via Email and First Class Mail

Shannon Bowyer Hudson, Deputy Chief Counsel
South Carolina Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
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Re: SCANA – Dominion Merger Ex Parte Briefing Certification

Dear Ms. Hudson:

We write on behalf of the South Carolina Coastal Conservation League concerning the ex parte briefing presented by SCANA and Dominion to the Public Service Commission (“PSC”) this afternoon about the proposed merger of those two utilities. The Coastal Conservation League takes no position on the proposed merger at this point, and looks forward to proceedings where there can be a full and fair evaluation of the deal in all its particulars. However, we do object to Dominion and SCANA’s presentation touting the claimed benefits of a merger and plainly suggesting a course of action for the Commission to take.

The merger of these utilities would require Commission approval after a contested case proceeding in which other parties, regulators, and the Commission itself can review the proposed merger in a contested docket and fully test the utilities’ claims and assumptions. S.C. Code § 58-3-260(B), § 1-23-320. As you are aware, there are also currently pending matters before the Commission concerning the V.C. Summer nuclear construction plant and SCE&G’s collection of rates connected thereto. *See* SC PSC Matters 2017-207-E, 2017-305-E. The League is a party to those cases.

In contrast with contested proceedings, ex parte, or “one party,” briefings allow a single party to present information to the Commission without other parties participating or even present. The Commission’s rules, accordingly, prohibit ex parte presenters from pleading a case or urging the Commissioners to arrive at a particular outcome:

“The presenter may not request that the Commission take any action or suggest a course of action for the Commission to take. This is illegal.” - Allowable Ex Parte Briefing Guideline #8

Today’s briefing violated this prohibition. Dominion and SCANA presented the merger as the “best outcome for SCANA customers” (Slide 4) following the V.C. Summer debacle, highlighting a number of claimed – but not proven – benefits to South Carolina ratepayers. Other statements, including the following, suggested actions that the Commission should take on

the merger approval as well as the above-referenced proceedings related to V.C. Summer abandonment:


- Mr. Addison: (asked by Commissioner if there are other options) “I don’t know of anything else” that could be done than merger; “think it’s the best decision”; “best solution” to stabilize situation
- Slide 5: “Dominion’s proposal removes uncertainty for South Carolina, SCANA and its customers”
- Slide 6: “Dominion’s proposal benefits all stakeholders”
- Mr. Addison: granting the Office of Regulatory Staff’s petition to cease rate collection related to V.C. Summer without a deal with Dominion would be “financially crippling”
- Mr. Farrell: the deal “helps ensure investor confidence”
- Mr. Farrell: the deal is the “largest refund by a utility in the history of the United States”
- Mr. Farrell: This deal is a \$12.2 billion benefit as compared with not approving the merger
- Mr. Farrell: (asked if Commission could reduce the return on equity in approving the merger) stated that such reduction would present an “insurmountable obstacle” to merger
- Mr. Farrell (asked by Commissioner about ORS petition, 2017-305-E) stated that granting relief sought by ORS in that case would present “insurmountable” barrier to merger

Such statements were clearly meant to suggest to the Commission that it should approve the utilities’ upcoming merger petition on the terms that the utilities will propose – take it or leave it – and also suggest a preferred outcome in the pending petitions, including the one filed by your office. The presentation was a one-sided view of suggested outcomes in multiple matters under consideration by the Commission.

A referee cannot start a game before both teams are on the field. So too South Carolina law prohibits a utility from presenting its case to the Commission before other parties have been given a fair and timely chance to challenge the utilities’ assumptions and assertions. We therefore respectfully request that the Office of Regulatory Staff withhold written certification for today’s briefing because the briefing was not conducted in compliance with the ex parte rules and guidelines. *See* S.C. Code § 58-3-260(C)(6)(a)(i). The League reserves all rights to seek appropriate remedies for impermissible ex parte communications regarding current and future proceedings before the Commission.

Thank you for your consideration.

Very truly yours,



Blan Holman

Cc: Eddy Moore, Energy and Climate Program Director, Coastal Conservation League
Joseph Melchers, Counsel, Public Service Commission of South Carolina
Chad Burgess, Counsel, SCANA Corporation